WISCONSIN

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
	WASHINGTON COUNTY			
Broan Mfg. Co. Inc.	Hartford	NR154.13(2)(i)...	Aug. 9,1973	Jan. 1,1975
Chrysler Outboard Corp.	do	do	Sept. 4,1973	Do.
Gehl Co.	West Bend	do	Sept. 6,1973	Do.
Kasten Mfg. Corp.	Allenton	do	Sept. 28,1973	June 1,1974
International Stamping Co., Inc.	Hartford	do	Sept. 12,1973	Jan. 1,1974
Regal Ware, Inc.	Kewaskum	do	Aug. 6,1973	Jan. 1,1975
West Bend Co.	West Bend	do	do	Mar. 1,1974
	WAUKESHA COUNTY			
Aeroshale, Inc.	Waukesha	NR154.13(2)(i)...	Sept. 4,1973	July 1,1974
Amron Corp.	do	do	July 5,1973	Do.
E. D. Artz Inc.	Brookfield	do	Sept. 6,1973	Jan. 1,1975
Oven System, Inc.	New Berlin	do	Sept. 14,1973	May 1,1974
Wenthe-Davidson Engineering Co.	do	do	Sept. 4,1973	Jan. 1,1974
	WOOD COUNTY			
Nekoosa Edwards Paper Co., Inc.	Pt. Edwards	NR154.11(3)(b)...	Aug. 23,1973	Sept. 23,1974

(e) The compliance schedule for the source category identified below is disapproved as not meeting the requirements of § 51.15 of this chapter. All regulatons cited are air pollution control regulations of the State, unless otherwise noted.

Source	Location	Regulations involved	Date schedule adopted
	DOUGLAS COUNTY		
M&O Elevators Inc. (c) Units 12-17	Superior	NR154.11 (3)(b).	Sept. 25,1973

[FR Doc.74-20584 Filed 9-9-74;8:45 am]

[258-3]

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines

On March 21, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 10601), setting forth the Environmental Protection Agency's proposed regulations under the Clean Air Act with respect to exclusion and exemption of motor vehicles and motor vehicle engines. Pursuant to that notice, which established a sixty day public comment period, several motor vehicle and motor vehicle engine manufacturers submitted comments on the proposed regulations. The regulations, as modified by the Agency to reflect the adopted comments, are promulgated below. A summary and explanation of the comments received follows:

Comments with regard to Exclusion. (1) Several comments were received which requested that EPA adopt lists of the specific vehicles excluded by the regulations. In this regard General Motors Corporation, Cummins Engine Company, and J. I. Case Company suggested incorporation of section 4540 A, B, C of the IRS Regulations, § 26.4061 of the IRS Code and Group Number 352 and 353 of the Standard Industrial Classification Manual respectively. While the proposed lists do contain many of the vehicles which will be excluded by the criteria stated in § 85.1703 of the regulations, there were vehicles on each list which would not be and, in EPA's judgment, should not be excluded. Also, future amendments to such lists might include vehicles not meriting exclusion. Some of the excluded items on the lists were machinery type attachments (e.g. shovels, rakes, cranes) which, while obviously excluded from the Act in their own right, might cause confusion when affixed to vehicles which would not be excluded. The confusion would arise from the possibility of someone observing the list, seeing the machinery attachment excluded, and necessarily concluding that the vehicle to which the attachment is affixed is also excluded. For these reasons, none of the lists were adopted. However, the Agency is of the opinion that industry needs would be served by promulgation of a list of excluded vehicles, particularly in those cases where the nature of the vehicle makes determinations as to exclusions difficult. Therefore, the Administrator will publish, from time to time, a list of excluded vehicles, by generic names, in order to address concerns of industry that specific guidance be available. The inclusion of any vehicle on the EPA exclusion list will be preceded by consultation with manufacturers who are concerned about the exclusion of such vehicles. The EPA exclusion list will be an Appendix to the 40 CFR Part 85 and will be published at such time as a sufficient number of exclusion determinations are made to warrant publication. Prior to publication, the list will be available from the Mobile Source Enforcement Division, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Room 3220.

Recommendations were also received from the Specialty Equipment Manufacturers Association (SEMA) to exclude vehicles of limited production intended typically for show or hobby use (e.g., dune buggies) and from Diamond Reo Trucks, Inc., to exclude vehicles which incorporate special features which are designed primarily for vocational missions which would cause them to operate almost entirely off-road. The recommendation of SEMA was not accepted because such exclusion would be based solely upon the intended use by the purchaser rather than the capability of the vehicles. The Agency views a policy of exclusion based upon owner intent to be virtually unmanageable and inconsistent with the Act because vehicles with on-road, off-road capabilities are typically operated in both situations. The recommendation of Diamond Reo was not accepted because the Agency believes that it is not feasible to regulate a vehicle based on the use it is primarily designed for. In lieu of the "designed primarily for" test, we have adopted the "capable of" test which is consonant with the literal language and the apparent intent of the Act. A vehicle's capability is a more workable, objective standard than its intended or designed-for use, which is dependent upon the manufacturer's subjective determination of the ultimate use to which the vehicle will be put. Nevertheless, the criteria of § 85.1703 would operate to exclude most vehicles which, because of their inordinate size or the fact that their operation on the highway would be highly unlikely or impracticable, are primarily designed for off-road use.

(2) A number of comments were received on the 20 mph average speed criterion stated in § 85.1703(a) (1). General Motors recommended that a maximum speed of 35 mph be used, Cummins recommended a 45 mph maximum speed, and J. I. Case recommended that the average speed be increased to 40 mph. A maximum speed criterion would indeed has elected to adopt that approach. average speed criterion, and the Agency has elected to adopted that approach. Since a maximum speed criterion is explicitly objective and operates to exclude automatically any vehicles which fall within it, the Agency sought to ensure that no vehicles which are truly capable of significant on-road use would be excluded on the basis of maximum speed alone. An example would be a small vehicle manufactured for use in an urban environment where mobility and fuel economy are more critical than speed. Such a vehicle would obviously not be excluded by the criteria of § 85.1703(a) (2) and (3), but would become excluded by the maximum speed criterion if such limit was set too high, e.g., if such a vehicle could attain a maximum speed of only 30 mph and the maximum speed criterion was above 30 mph. Accordingly, the Agency determined that any vehicle unable to attain a maximum speed of 25 mph would be excluded. One factor used in this determination was that 25 mph

is the speed limit prescribed in many urban areas. This maximum speed criterion in § 85.1703(a)(1) will operate to exclude a substantial number of off-road vehicles outright. It is felt that application of the criterion in § 85.1703(a)(2) and (3) will exclude vehicles which are not on-road vehicles, but which have maximum speeds in excess of 25 mph.

(3) General Motors proposed additions to the exclusion section which would exclude specifically: (a) firetrucks, because of their higher horsepower requirements, emergency use, and intermittent operation, (b) vehicles which do not require state licenses, (c) vehicles manufactured solely for construction or maintenance of roads, and (d) vehicles of an inordinate size so as to exceed state legal limits or require permits for operation. These proposals were not accepted for the following reasons (lettered to correspond to the above proposed additions): (a) Firetrucks are not considered a special case since no demonstration of an impairment of their mission due to the use of emission control systems have been evidenced to this Agency. With regard to concern raised by manufacturers who must certify the firetruck engines at a horsepower rating above that usually required by other engine applications, it is suggested that they present their concerns to the Certification and Surveillance Division of the Mobile Source Air Pollution Control Program, 2565 Plymouth Road, Ann Arbor, Michigan 48105. It is possible that these concerns may be resolved in a manner similar to the situation involving emergency fuel rates for military diesel engines. (See 40 CFR 85.974–5, and 85.874–5) (b) State licensing procedures vary and would not facilitate uniform application. Situations will arise where one state has a standard for licensing which would operate to exclude a vehicle which would not be excluded by the standards in any other state. If the Agency based its regulations solely on state practices, it would then either allow one state's law to have nationwide impact or exclude some vehicles only if sold in a particular state. Neither of these options presents a cohesive Federal policy. (c) The fact that vehicles are manufactured for construction and maintenance of roads does not per se lead to the conclusion that such vehicles are not capable of on-road use. Therefore, exclusion of such vehicles as a class is not warranted. Of course, such vehicles as earth movers or bulldozers would be excluded by operation of § 85.1703(a)(1), (2), and (3). (d) the Agency considers the "inordinate size" criterion to be closely linked with the "highly unlikely" criterion so that in some cases a vehicle's inordinate size might contribute to its use on the road being highly unlikely even though its dimensions fall within state limits. And, as stated in (b) above, application of the different state laws does not lend itself to uniform federal regulation.

(4) As recommended by GM, § 85.1703(a)(2) was changed to read "* * * such features including, but not being limited to, a reverse gear (except in the case of motorcycles), a differential or safety features required by state and/or federal law;" This section had previously read "* * * and safety features required by state and/or federal law;".

(5) Cummins recommended that the definition of vehicle in § 85.1703(b) be the Clean Air Act definition of motor vehicle in section 214(2). This suggestion was not accepted because the definition was intended to apply to the term "vehicle" which is used in the criteria of § 85.1703(b). Upon further evaluation, however, the Agency determined that the definition of vehicle constituted a possible source of confusion and therefore, deleted it. Instead, § 85.1703(a) was changed to indicate that a self-propelled vehicle capable of transporting a person or persons or any material, or permanently or temporarily affixed apparatus is a motor vehicle unless excluded by the listed criteria.

Comments with regard to exemptions. (1) Ford was concerned that EPA does not have statutory authority to grant exemptions for in-use motor vehicles or motor vehicle engines since the exemption provision of the Act refers literally only to new vehicles. In lieu of in-use exemption, Ford submitted a recommendation changing the regulations to indicate that modification of an in-use vehicle or engine by a manufacturer would not be considered tampering, even if emissions were increased, if the modification was (i) part of a bona fide good faith test (ii) adequate records were kept (iii) the vehicle or engine would be labeled as one for test and (iv) the modification was temporary and the vehicle or engine was subsequently placed in certified configuration. This proposal was not accepted for the following reasons. (a) Interpreting "removing or rendering inoperative" to be inapplicable in cases where modifications cause emissions to increase constitutes no less, if not more, of a strain on the literal wording of the Act than to interpret "new vehicles" to include in-use vehicles in the exemption context. (b) While the authority to grant in-use exemptions is not explicitly stated in the Act, a reasonable construction of the exemption provision would allow in-use exemptions. Under the literal reading of the Act, EPA may grant a new motor vehicle exemption, and under such exemption, modifications could be performed on the exempted vehicle after sale to an ultimate purchaser (e.g., where an exemption is obtained, the vehicle sold while still in certified configuration, and modifications subsequently made for purposes of test or otherwise). However, in Ford's view, EPA could not grant an exemption for the same vehicle if the exemption were requested after sale rather than prior to sale.

Considering that in both cases the purposes justifying the exemption are valid, it appears illogical to grant in one and deny in the other. Therefore, the in-use exemption has been retained as a practical and consistent means of effecting the intent of the Act. It is emphasized that exemptions for in-use motor vehicles or engines are only necessary in cases where modifications will cause emission standards to be exceeded. Therefore, in the particular case raised by Ford where a manufacturer obtains competitive make vehicles for modification and test, he would be required to obtain an exemption, or be liable under the tampering provision only if the modifications caused emission standards to be exceeded.

(2) Ford's comment regarding § 85.1702(a)(5) recommended specifying that a pre-certification vehicle engine exemption applied to "heavy duty engines" rather than "engine." Ford noted that the latter term may be interpreted to include light duty engines, and since no standards or regulations apply to light duty engines, an illogical conclusion would result (i.e., that exemptions must be obtained for light duty engines). This proposal was accepted. While EPA is studying the need for regulatory efforts in the area of light duty engines, it is considered advisable for clarification purposes, to reflect current policy in the Exclusion and Exemption regulations.

(3) Two additional comments by Ford were also accepted. Section 85.1705 (d), (e), and (h) was changed to clarify that reference was to test programs for vehicles or engines, whichever were appropriate, rather than vehicles and engines in every case, and § 85.1705(g) was changed to allow a vehicle exempt for purposes of display to be operated on the road to a very limited extent, e.g., travel from the rail ramp to the clean-up facility to the display area. The exemption for display had prohibited any on-road use.

(4) General Motors submitted a number of comments on § 85.1705, Testing Exemption. In general, GM proposed that requirements for a testing exemption should be the same as those for a pre-certification exemption. This proposal was not accepted. The more stringent testing exemption requirements are proposed because the terms of this exemption allow lease or sale of the vehicles, whereas vehicles under a pre-certification may not be sold or leased. For this reason, the Agency believes that requests for testing exemptions where sale or lease is involved should be scrutinized more carefully and supported by more information. A number of specific proposals were also submitted: (i) a proposal to amend § 85.1705(d) to permit manufacturers to determine "reasonableness" of the test was not accepted because EPA believes that this determination must be made by EPA in the discharge of its responsibility to administer the exemption provision; (ii) a proposal to amend § 85.1705(d)(2) to substitute a maximum instead of an absolute number of vehicles was accepted; (iii) a proposal to delete § 85.1705(d)(3) (total sales proportion) was not accepted since this information is relevant to the determination of the reasonableness of the exemp-

tion request, particularly when dealing with small volume manufacturers who may request exemptions for an unusually high percentage of their total production line and thus use the exemption to avoid certification for a particular model; (iv) a recommendation to delete § 85.1705(e)(2) (site of the test) was not accepted since all that is required is to identify the site (which may be read as general geographic location(s)) to the extent possible at the time of the application and this information is required by EPA in its efforts to audit vehicles on exempt status; (v) a proposal to change § 85.1705(e)(3) to read "time or mileage" vice "time and mileage" (comment also submitted by Cummins) was accepted; and (vi) a proposal to delete the § 85.1705(e)(6) requirement to submit Vehicle Identification Numbers and Engine Serial Numbers with the application was accepted, although the requirement that this information be kept by the manufacturers and made available to the Agency when the need arises is retained.

(5) GM proposed that § 85.1708 (fuel conversion exemption) clearly state that an exemption for conversion to liquid petroleum gas (LPG) is permitted. Since section 203(c) authorizes exemptions for engine modifications for the purpose of fuel conversion only if the conversion will not cause the emission standards to be exceeded, and since the Agency interprets the tampering provision (section 203(a)(3)) to be applicable only to modifications which cause emission standards to be exceeded, then an exemption for a fuel conversion which did not exceed standards would be unnecessary. Furthermore, most of the fuel conversions which EPA is aware of involve propane or butane which, in most cases, result in very low exhaust emissions of the controlled pollutants. Section 85.1708 has been deleted from the final regulations. However, any manufacturer or dealer contemplating a fuel conversion modification is responsible for assuring himself that the conversion will not result in emissions exceeding the standards applicable to the engine or vehicle being converted.

(6) At the urging of Cummins and Chrysler, § 85.1704(a) was modified to clearly indicate that an export exemption need not be applied for, but is granted by operation of the statute and conditioned as provided in the regulations.

The regulations promulgated below shall be effective immediately. These regulations are promulgated under the authority of the Clean Air Act, as amended, sections 203(b) [42 U.S.C. 1857 f-2], 214(2) [formerly 213(2), 42 U.S.C. 1857 f-7, changed to 214(2) by Pub. L. 93-319, June 22, 1974], and 301 [42 U.S.C. 1857 g].

Dated: September 4, 1974.

RUSSELL E. TRAIN,
Administrator.

Subpart R—Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines

Sec.
85.1701 General applicability.
85.1702 Definitions.
85.1703 Application of section 214(2).
85.1704 Who may request an exemption.
85.1705 Testing exemption.
85.1706 National security exemption.
85.1707 Export exemptions.
85.1708 Granting of exemptions.
85.1709 Submission of exemption requests.

AUTHORITY: Secs. 203(b) (42 U.S.C. 1857f-2), 214(2) (formally 213(2), 42 U.S.C. 1857f-7, changed to 214(2) by Pub. L. 93-319, June, 1974), and 301 (42 U.S.C. 1857g).

§ 85.1701 General applicability.

(a) The provisions of this subpart regarding exemption are applicable to new and in-use motor vehicles and motor vehicle engines.

(b) The provisions of this subpart regarding exclusion are applicable after the effective date of these regulations.

§ 85.1702 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Export exemption" means an exemption granted by statute under section 203(b)(3) of the Act for the purpose of exporting new motor vehicles or new motor vehicle engines.

(2) "National security exemption" means an exemption which may be granted under section 203(b)(1) of the Act for the purpose of national security.

(3) "Pre-certification vehicle" means an uncertified vehicle which a manufacturer employs in fleets from year to year in the ordinary course of business for product development, production method assessment, and market promotion purposes, but in a manner not involving lease or sale.

(4) "Pre-certification vehicle engine" means an uncertified heavy duty engine used in a vehicle which a manufacturer employs in fleets from year to year in the ordinary course of business for product development, production method assessment, and market promotion purposes, but in a manner not involving lease or sale.

(5) "Testing exemption" means an exemption which may be granted under section 203(b)(1) for the purpose of research investigations, studies, demonstrations or training, but not including national security where lease or sale of the test vehicle or engine is involved.

§ 85.1703 Application of section 214(2).

(a) For the purpose of determining the applicability of section 214(2), a vehicle which is self-propelled and capable of transporting a person or persons or any material or any permanently or temporarily affixed apparatus shall be deemed a motor vehicle, unless any one or more of the criteria set forth below are met, in which case the vehicle shall be deemed not a motor vehicle and excluded from the operation of the Act:

(1) The vehicle cannot exceed a maximum speed of 25 miles per hour over level, paved surfaces; or

(2) The vehicle lacks features customarily associated with safe and practical street or highway use, such features including, but not being limited to, a reverse gear (except in the case of motorcycles), a differential, or safety features required by state and/or federal law; or

(3) The vehicle exhibits features which render its use on a street or highway unsafe, impractical, or highly unlikely, such features including, but not being limited to, tracked road contact means, an inordinate size, or features ordinarily associated with military combat or tactical vehicles such as armor and/or weaponry.

(b) The Administrator will, from time to time, publish in the FEDERAL REGISTER a list of vehicles which have been determined to be excluded. This list will be in Appendix VI of 40 CFR Part 85.

§ 85.1704 Who may request an exemption.

(a) Any manufacturer may request any exemption provided by this subpart, or exempt, without application, vehicles as provided by § 85.1707. For heavy duty motor vehicle engines, exemption may be requested by the engine manufacturer or the vehicle manufacturer.

§ 85.1705 Testing exemption.

(a) Any manufacturer requesting a testing exemption must demonstrate the following:

(1) That the proposed test program has a purpose which constitutes an appropriate basis for an exemption in accordance with section 203(b)(1);

(2) That the proposed test program necessitates the granting of an exemption;

(3) That the proposed test program exhibits reasonableness in scope; and

(4) That the proposed test program exhibits a degree of control consonant with the purpose of the program and the Environmental Protection Agency's (hereafter EPA) monitoring requirements. Paragraphs (b), (c), (d), and (e) of this section describe what constitutes a sufficient demonstration for each of the four above identified elements.

(b) With respect to the purpose of the proposed test program, an appropriate purpose is one which is consistent with one or more of the bases for exemption set forth under section 203(b)(1), namely, research, investigations, studies, demonstrations, or training, but not including national security. A concise statement of purpose is a required item of information.

(c) With respect to the necessity that an exemption be granted, necessity arises from an inability to achieve the stated purpose in a practicable manner without performing one or more of the prohibited acts under section 203(a). In appropriate circumstances time constraints may be a sufficient basis for necessity, but the cost of certification alone, in the absence of extraordinary circumstances, is not a basis for necessity.

(d) With respect to reasonableness, a test program must exhibit a duration of reasonable length and affect a reasonable number of vehicles or engines. In

this regard, required items of information include:

(1) An estimate of the program's duration;

(2) The maximum number of vehicles or engines involved; and

(3) The fraction of the applicant's total sales represented by the absolute number of (2).

(e) With respect to control, the test program must incorporate procedures consistent with the purpose of the test and be capable of affording EPA monitoring capability. As a minimum, required items of information include:

(1) The technical nature of the test;

(2) The site of the test;

(3) The time or mileage duration of the test;

(4) The ownership arrangement with regard to the vehicles or engines involved in the test;

(5) The intended final disposition of the vehicles or engines;

(6) The manner in which vehicle identification numbers or the engine serial numbers will be identified, recorded, and made available; and

(7) The means or procedure whereby test results will be recorded.

(f) Paragraph (a) of this section applies irrespective of the engine's or vehicle's place of manufacture.

(g) Where an uncertified vehicle or engine is a display vehicle or engine to be used solely for display purposes, will not be operated on the public streets or highways except for that operation incident and necessary to the display purpose, and will not be sold unless an applicable certificate of conformity has been received, no request for exemption of the vehicle or engine is necessary.

(h) Paragraph (a) of this section does not apply for pre-certification vehicles or pre-certification engines. In such cases a request for exemption is necessary; however, the only information required is a statement setting forth the general nature of the fleet activities, the number of vehicles involved, and a demonstration that adequate record keeping procedures for control purposes will be employed.

§ 85.1706 National security exemption.

A manufacturer requesting a national security exemption must state the purpose for which the exemption is required and the request must be endorsed by an agency of the Federal Government charged with responsibility for national defense.

§ 85.1707 Export exemptions.

(a) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall be subject to the provisions of section 203(a) of the Act, unless the importing country has new motor vehicle emission standards which differ from the USEPA standards.

(b) For the purpose of paragraph (a) of this section, a country having no standards, whatsoever, is deemed to be a country having emission standards which differ from USEPA standards.

(c) EPA shall periodically publish in the FEDERAL REGISTER a list of foreign countries which have in force emissions standards identical to USEPA standards and have so notified EPA. New motor vehicles or new motor vehicle engines exported to such countries shall comply with USEPA certification regulations.

(d) It is a condition of any exemption for the purpose of export under section 203(b)(3) of the Act, that such exemption shall be void ab initio with respect to a new motor vehicle or new motor vehicle engine intended solely for export where:

(1) Such motor vehicle or motor vehicle engine is sold, or offered for sale, to an ultimate purchaser in the United States for purposes other than export; and

(2) The motor vehicle or motor vehicle engine manufacturer had reason to believe that any such vehicle would be sold or offered for sale as described in (d)(1) of this section.

§ 85.1708 Granting of exemptions.

(a) If upon completion of the review of an exemption request, the granting of an exemption is deemed appropriate, a memorandum of exemption will be prepared and submitted to the manufacturer requesting the exemption. The memorandum will set forth the basis for the exemption, its scope, and such terms and conditions as are deemed necessary. Such terms and conditions will generally include, but are not limited to, agreements by the applicant to conduct the exempt activity in the manner described to EPA, create and maintain adequate records accessible to EPA at reasonable times, employ labels for the exempt engines or vehicles setting forth the nature of the exemption, take appropriate measures to assure that the terms of the exemption are met, and advise EPA of the termination of the activity and the ultimate disposition of the vehicles or engines.

(b) Any exemption granted pursuant to paragraph (a) of this section shall be deemed to cover any subject vehicle or engine only to the extent that the specified terms and conditions are complied with. A breach of any term or condition shall cause the exemption to be void ab initio with respect to any vehicle or engine. Consequently, the introduction or delivery for introduction into commerce of any subject vehicle other than in strict conformity with all terms and conditions of this exemption shall constitute a violation of section 203(a)(1) of the Clean Air Act, shall render the manufacturer or person to whom the exemption is granted, and any other person to whom the provisions of section 203 are applicable, liable to suit under sections 204 and 205 of the Act.

§ 85.1709 Submission of exemption requests.

Requests for exemption or further information concerning exemptions and/or the exemption request review procedure should be addressed to:

Director
Mobile Source Enforcement Division
Environmental Protection Agency
401 M Street, S.W.,
Washington, D.C. 20460

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[FRL 209-7]

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Low Emission Vehicles

On July 13, 1973 (38 FR 18686) EPA published a notice of proposed rulemaking (NPRM) to provide for the determination of low emission vehicle status for 1975 and later model year light duty vehicles, and for heavy duty vehicles. Section 212 of the Clean Air Act (42 U.S.C. 1857f-6e) established a process under which the Federal Government will pay premium prices for motor vehicles whose emissions control performance is significantly better than that required by the Federal standards in effect at the time of their procurement. To be eligible for these premium prices, a motor vehicle must first be classified as a "low emission vehicle" by EPA, and then approved by the interagency Low Emission Vehicle Certification Board as a suitable replacement for some class or model of vehicles that the Federal Government is then purchasing.

The provisions regarding light duty low emission vehicles have been revised to reflect EPA's current position on the required levels of oxides of nitrogen control. EPA has concluded that the oxides of nitrogen standard specified in the NPRM is in the near term more stringent than necessary from an air quality standpoint. Therefore, the regulations have been revised to specify that any light duty vehicle which meets the current statutory oxides of nitrogen standard (0.4 gms/mile) before such a standard becomes effective under section 202 will, subject to the other requirements in effect under section 212, qualify as a low emission vehicle. EPA has also reexamined the hydrocarbon and carbon monoxide standards specified in the NPRM with the view of considering a less stringent standard as adequate to qualify as a low emission vehicle, and has concluded that there is no justification for relaxing those standards. Thus no other changes from the NPRM were made regarding light duty low emission vehicles.

One commenter objected to the inclusion of heavy duty vehicles in the regulations. Heavy duty vehicles had been proposed to be included in the section 212 regulations based, in part, on an opinion from EPA's Office of General Counsel that section 212 was not intended by Congress to apply exclusively to light duty vehicles.

The current heavy duty vehicle regulations promulgated under section 206 apply to heavy duty engines, and not heavy duty vehicles. There are two types of heavy duty engines being produced now for use in heavy duty vehicles, heavy